

REMARKS

I. Summary of Amendment

By this Amendment, Applicants propose amending claims 1, 25, 32, 41, 43, and 49. Claims 1–50 are pending.

II. Summary of Rejections

In the Final Office Action of January 29, 2009,¹ the Examiner

(a) rejected claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 under 35 U.S.C. § 101 for being directed to non-statutory subject matter;

(b) rejected claims 25 and 26 under 35 U.S.C. § 102(a) based on WO 01/18674 ("*Maloney*");

(c) rejected claims 1–9, 11–13, 17, 18, 20–24, 27, 30–32, and 34–50 under 35 U.S.C. § 103(a) based on *Maloney* and U.S. Patent No. 5,796,932 ("*Fox*");

(d) rejected claim 10 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and U.S. Patent Application Publication No. 2002/0082869 ("*Anderson*");

(e) rejected claim 19 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and Official Notice; and

(f) rejected claims 14–16, 28, 29, and 33 under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and U.S. Patent Application Publication No. 2002/0059248 ("*Farchione*").

¹ Applicants note that the Final Office Action contains numerous statements concerning the related art, claims, etc. Regardless of whether any such statement is addressed specifically herein, Applicants decline to automatically subscribe to any assertion or characterization in the Final Office Action.

III. Rejection Under 35 U.S.C. § 101

Applicants traverse the rejection of claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 under 35 U.S.C. § 101.

On page 2 of the Final Office Action, the Examiner stated that claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 do not indicate that “said recommendations are generated **by** the computer” (emphasis added); thus, the claims are allegedly not directed to statutory subject matter. Applicants do not necessarily agree with the Examiner’s basis for the Section 101 rejection, but, in order to advance the prosecution of this application, Applicants amend independent claims 1, 25, 32, 41, 43, and 49 to recite, e.g., “generating, by [a] computer system . . . ,” as suggested by the Examiner. Accordingly, the rejection of claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 under 35 U.S.C. § 101 should be withdrawn.

IV. Rejections Under 35 U.S.C. §§ 102(a) and 103(a)

Applicants note that in the Final Office Action at page 4, the claims listed in the statement of the 35 U.S.C. § 103(a) rejection based on *Maloney* and *Fox* does not list claims 48–50, but those claims are mentioned in the explanation of the claim rejection appearing in the Final Office Action at pages 16–17. Applicants respectfully request clarification and correction of this apparent typographical error.

Applicants traverse the rejections under 35 U.S.C. §§ 102(a) and 103(a) for at least the reasons discussed in Applicants’ Appeal Brief filed on February 3, 2006, and Reply Brief filed on June 12, 2006. Pursuant to M.P.E.P. § 706.07(h), Applicants’ arguments in the Appeal Brief and Reply Brief regarding the rejections under 35 U.S.C. §§ 102(a) and 103(a) are incorporated herein by reference.

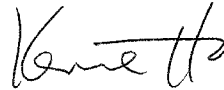
CONCLUSION

Applicants submits that the proposed amendments of claims 1, 25, 32, 41, 43, and 49 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Indeed, the claim amendments adopt the Examiner's suggestions. Thus, this Amendment should allow for immediate action by the Examiner. Further, Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims. Applicants therefore request the entry of this Amendment (at least for purposes of appeal) and the Examiner's reconsideration of the application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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